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and Garden Meadow, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SANDY COOPER, an individual, GARDEN
MEADOW, INC., a Connecticut corporation,

Plaintiffs,

vs.

NINGBO XINGQIANG METALLIC
PRODUCTS CO., LTD., a Chinese company,

Defendant.

CASE NO. 2:12-cv-00698

DEFAULT AND DEFAULT JUDGMENT

On April 26, 2012, Plaintiffs Garden Meadow, Inc. ("Garden Meadow") and Sandy Cooper (together, "Plaintiffs") filed their Verified Complaint [Doc. #1] against Defendant Ningbo Xingqiang Metallic Products Co. Ltd. ("Defendant") for copyright infringement. Defendant was served with the Verified Complaint, an Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction [Doc. #2], and a Temporary Restraining Order and Order to Show Cause Regarding Preliminary Injunction [Doc. #8] via facsimile and email on April 27, 2012.

The Court held a Preliminary Injunction Hearing on May 8, 2012. There being no opposition from Defendant, and this Court finding that Defendant was actually and willfully engaged in committing and would continue to commit acts of copyright infringement, the Court entered a Preliminary Injunction Order [Doc. #15].

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2 Plaintiffs also attempted to effectuate service pursuant to the Convention on
3 Service Abroad of Judicial and Extrajudicial Documents (the “Hague Convention”) by
4 transmitting the service documents¹ to the Ministry of Justice for the People’s Republic
5 of China (the “Ministry”) beginning in June 2012. The Court finds that Plaintiffs have
6 complied with the service methods provided for in the Convention, Plaintiffs have been
7 diligent in their efforts in serving the documents, including resubmitting the service
8 documents three additional times, and despite Plaintiffs making every reasonable effort
9 to obtain service through the Ministry, more than six months has elapsed and Plaintiffs
10 have still not received a certificate of service. Under these circumstances, this Court may
11 enter judgment pursuant to Article 15 of the Hague Convection. Plaintiffs also served the
12 service documents again on Defendant via Federal Express on February 15, 2013.

13 Defendant has not appeared in this action and has not filed a response to the
14 Complaint or any other pleading. After reviewing all pleadings and papers on file in this
15 matter, it is hereby:

16 ORDERED, ADJUDGED, and DECREED that Defendant’s default be entered
17 upon the record for failing to respond to the Complaint and Pursuant to the Article 15 of
18 the Hague Convention; and

19 IT IS FURTHER ORDERED, ADJUDGED, and DECREED that judgment is
20 hereby entered for Plaintiffs and against Defendant in the sum of \$2,850,000 for
21 compensatory damages.

22 IT IS FURTHER ORDERED, ADJUDGED, and DECREED that judgment is
23 hereby entered for Plaintiffs and against Defendant in the sum of \$26,254.18 for attorney
24 fees and costs incurred in this matter.

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27 ¹ These documents included 1) Form USM-94; 2) Issued Summons to Defendant; 3) two copies of the
28 Verified Complaint in English; 4) two copies of the verified complaint in Chinese; 5) two copies the Ex
Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction; 6) the
Preliminary Injunction Order; and 7) an international money order in the amount of \$95.

1 IT IS FURTHER ORDERED, ADJUDGED, and DECREED that judgment is
2 hereby entered for Plaintiffs and against Defendant in the sum of \$4,702.50 for
3 prejudgment interest.

4 IT IS FURTHER ORDERED, ADJUDGED, and DECREED that Defendant and
5 its servants, officers, agents, employees, attorneys, and all persons acting in concert,
6 participation, or privity with them, be singly and collectively permanently enjoined from
7 copying, making, manufacturing, using, possessing, selling, offering for sale, disclosing,
8 exhibiting, reproducing, creating derivative works from, distributing, shipping, licensing,
9 developing, delivering, importing, marketing, advertising, displaying, or promoting any
10 products that are substantially similar to the total concept and feel of any of Plaintiffs'
11 copyrighted works, including, but not limited to, works incorporating a ball with a
12 distinctive foggy film-like look when unilluminated and, when illuminated, diffused
13 colored or white light which emanates from within the ball, which is incorporated into
14 decorative design configurations (e.g. plants, animals, insects, birds, fish, suns, and
15 moons) made from metal, or incorporating decorative exterior lantern housings in certain
16 shapes (e.g. circles, ovals, rectangles, pear shapes, cylinders, plants, animals, birds, and
17 fish) with distinctive sculptural metalwork having a wrought iron appearance, in frilly,
18 whimsical design configurations which constitute the exterior portions with a distinctive
19 foggy film-like look when unilluminated and, when illuminated, diffused colored or
20 white light which emanates from within the lantern, or works in any other way
21 substantially similar to the works protected by U.S. Copyright Registration VA-1-425-
22 762, VAu-1-002-280, VA-1-668-335, VA-1-668-337, VA-1-747-291, VA 1-684-990,
23 VAu 1-036-279, VA 1-341-698, VA 1-370-959, VA 1-370-956, VA 1-370-955, VA 1-
24 370-957, VA 1-425-753, VA 1-670-212, VAu 967-187, VA 1-667-902, VA 1-671-


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1 412, VA 1-670-132, VA 1-775-716, copies of which registrations are incorporated herein
2 by reference and attached hereto.

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4 IT IS SO ORDERED.

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6 
UNITED STATES DISTRICT JUDGE

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8 DATED: March 27, 2013
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